INDEX

	Page
Opinion below	1
Jurisdiction	1
Question presented	2
Statute and directive involved	2
Statement	2
Argument	8
Conclusion	17
Appendix	18

CITATIONS

Cases:	
Armour & Co. v. *Bowles*, 148 F. 2d 529, certiorari denied, 325 U. S. 871	15
Armour & Co. v. *Reconstruction Finance Corporation*, 162 F. 2d 918	8
Barnett v. *Bowles*, 151 F. 2d 77, certiorari denied, 326 U. S. 766	8
Bowles v. *Willingham*, 321 U. S. 503	16
Burnes v. *Burnes*, 137 Fed. 781, certiorari denied, 199 U. S. 605	13
Counselman v. *Fleming*, 161 F. 2d 203, certiorari denied, 331 U. S. 861	16
Cudahy Bros. Co. v. *Bowles*, 142 F. 2d 468	8
Galante v. *Commodity Credit Corporation*, 71 F. Supp. 963	16
Gray v. *Commodity Credit Corporation*, 63 F. Supp. 386, affirmed, 159 F. 2d 243, certiorari denied, 331 U. S. 842	13
Hedges v. *Dixon County*, 150 U. S. 182	12
Illinois Packing Co. v. *Snyder*, 151 F. 2d 337	8
Keller v. *Ashford*, 133 U. S. 610	13
Madison Park Corp. v. *Bowles*, 140 F. 2d 316	8
Manufacturer's Finance Co. v. *McKey*, 294 U. S. 442	12
Montgomery Ward & Co. v. *Bowles*, 138 F. 2d 669	8
Philadelphia Coke Co. v. *Bowles*, 139 F. 2d 349	16
Safeway Stores, Inc. v. *Bowles*, 145 F. 2d 836, certiorari denied, 324 U. S. 847	16–17
Schluderberg-Kurdle Co. v. *Reconstruction Finance Corporation*, 169 F. 2d 419, certiorari denied, 335 U. S. 846	14
United States v. *Golden Gate Bridge and Highway District*, 37 F. Supp. 505, affirmed, 125 F. 2d 872, certiorari denied, 316 U. S. 700	12
U. S. Gypsum Co. v. *Brown*, 137 F. 2d 803	16
Yakus v. *United States*, 321 U. S. 414	14

880259—50——1

Statute:
Page
Emergency Price Control Act of 1942 (56 Stat. 23, 765, 58 Stat. 632, 59 Stat. 306, 60 Stat. 664; 50 U. S. C. App. 901 *et seq.*:
Sec. 1 (a) ---- 14
Sec. 1 (b) ---- 7, 18
Sec. 2 (e) ---- 2, 18
Sec. 2 (h) ---- 16
Sec. 203 (a) ---- 19
Sec. 204 (a) ---- 7, 19
Sec. 204 (b) ---- 8, 20
Sec. 204 (d) ---- 20
Miscellaneous:
Directive 87, Office of Economic Stabilization (10 F. R. 14450) ---- 2, 20
Amendment 2 to Directive 87 (11 F. R. 2994) ---- 3, 21
Amendment 3 to Directive 87 (11 F. R. 5023–5024) ---- 4, 13, 22
OPA Revised Price Schedule 50, Amendment 16 (11 F. R. 8868) ---- 5

In the Supreme Court of the United States

OCTOBER TERM, 1949

No. 542

DUNCAN COFFEE COMPANY, PETITIONER

v.

RECONSTRUCTION FINANCE CORPORATION

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES EMERGENCY COURT OF APPEALS

BRIEF FOR THE RESPONDENT IN OPPOSITION

OPINION BELOW

The opinion of the Emergency Court of Appeals (R. 167) is reported at 178 F. 2d 926.

JURISDICTION

The judgment of the Emergency Court of Appeals was entered December 16, 1949 (R. 176). The petition for a writ of certiorari was filed January 14, 1950. The jurisdiction of this Court is invoked under Section 204 (d) of the Emergency Price Control Act of 1942, *infra*, p. 20, making applicable Section 240 of the Judicial Code, as amended (now 28 U. S. C. 1254).

QUESTION PRESENTED

Whether the Emergency Court of Appeals erred in holding that the plain language of the coffee subsidy contract between petitioner and the Reconstruction Finance Corporation authorized the recapture of subsidy on petitioner's entire terminal inventory.

STATUTE AND REGULATION INVOLVED

The pertinent parts of the Emergency Price Control Act of 1942, as amended (56 Stat. 23, 765, 58 Stat. 632, 59 Stat. 306, 60 Stat. 664; 50 U. S. C. App. 901 *et seq.*, and the directive involved are set forth in the Appendix, *infra*, pp. 18–22.

STATEMENT

In 1945, green coffee was in short supply in this country due to war conditions and the demands for increased prices made by foreign sources of supply. To assure necessary coffee imports without increasing coffee prices to consumers, the Director of Economic Stabilization, by Directive 87 of November 23, 1945 (10 F. R. 14450) ordered RFC to subsidize coffee imports by paying 3 cents per pound for green coffee imported in accordance with the conditions of the Directive.[1]

[1] Section 2 (e) of the Emergency Price Control Act, *infra*, pp. 18–19, provided that subsidies might be paid upon material defined by the President as strategic or critical, upon the determination of the Federal Loan Administrator, with the

At the request of the industry, the subsidization program was effectuated through 312 substantially similar contracts between coffee companies and respondent (R. 168). The contract entered into between Duncan and the RFC was designated as Agreement No. 268 (R. 41). Respondent agreed therein to pay petitioner 3 cents a pound on a maximum of 11,946,580 pounds, purchased for import and received into this country within certain time limits. Paragraph 13 provided for modification by mutual consent at any time.

The contract was twice amended by mutual action. The first amendment (R. 49) occurred on March 19, 1946, and incorporated therein almost verbatim the provisions of Par. 1 (f) (iii) of Directive 87 of the Office of Economic Stabilization, as added by Amendment No. 2 of that Directive of the same date, *infra*, pp. 21–22. After increasing by more than 100 per cent the maximum amount of coffee that Duncan could import and extending the time for purchase of such coffee, the amendment added, as paragraph 14 of the contract, the following "recapture" clause (R. 49):

> In the event of an increase in OPA maximum prices on coffee, the importer shall pay to RFC an amount equal to the increase in maximum prices per pound on

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approval of the President, that they were needed to obtain the maximum necessary production thereof.

each type of coffee (not to exceed three cents a pound, green basis) times the number of pounds of each type of coffee which the importer owns in the continental United States at the close of business on the day prior to such increase in maximum prices, less the amount of such coffee which the importer has contracted to sell at a fixed price not to exceed the OPA maximum prices for such coffee in effect April 1, 1946, provided that the total amount of repayment to RFC shall not exceed the amount of payments by RFC to the importer under this agreement as amended.

The second amendment to the contract (R. 50) took place on May 7, 1946, following the language of Par. 1 (f) (iii) of Directive 87 as modified by Amendment No. 3 of May 6 to that Directive, *infra,* p. 22. It extended Duncan's time for arrival in this country of imported coffee and modified paragraph of the contract to read as follows:

> In the event of an increase in or removal of OPA maximum prices on coffee, the importer shall pay to RFC an amount equal to the equivalent of the increase in value of his inventory, computed as follows:
>
> a. The rate shall be three cents a pound green basis, or the increase in OPA maximum prices, whichever is lower.

b. The inventory shall include all types of coffee, measured in green basis equivalents, at the close of business on the day prior to such increase in or removal of maximum prices, which either the importer owns in the continental United States or for which a bill of lading covering shipment to the United States for the importer's account has been issued in a foreign port; provided that the total inventory shall be reduced by the quantity of such coffee which the importer has contracted to sell at a fixed price not to exceed the OPA maximum prices for such coffee in effect April 1, 1946.

c. The total amount of repayment to RFC under this paragraph shall not exceed the amount of payments by RFC to the importer under this agreement as amended.

On August 14, 1946, maximum prices on green coffee were increased by Amendment 16 to OPA Revised Price Schedule 50 (11 F. R. 8868) by $0.0832 per pound. Pursuant to this increase, respondent, in accordance with the provisions of paragraph 14 of the contract, adjusted a flat 3 cents per pound liability on each pound of coffee [not, of course, already contracted for sale at the former ceiling prices] in Duncan's inventory at that time (R. 170). This contractual liability, calculated on petitioner's entire inventory at the time and withheld from subsidy payments in the amount of $774,998.37 due Duncan, amounted to

$189,194.64.[2] Of this sum, $110,135.28 was attributable to coffee actually imported by petitioner (R. 170). The balance, $79,059.36, represented that part of the inventory which had not been imported by Duncan but which had been purchased by it from other importers (R. 170).

Duncan admits that respondent was entitled to recapture the sum of $110,135.28, adjusted on that part of the inventory imported by it and on which it had received subsidies (R. 170). Contending, however, that RFC had no right to recover the balance of $79,059.36, attributable to coffee which had not been imported by it and which it had acquired "in its role as a roaster" (R. 170), Duncan filed a protest with respondent in accordance with Section 203 (a) of the Emergency Price Control Act, *infra*, p. 19 (R. 80–81). Pending disposition of the protest (R. 81), Duncan instituted an action, substantially similar to the present suit, against RFC in the District Court for the Southern District of Texas (R. 77–84). That court dismissed for want of jurisdiction since the Emergency Court of Appeals was found to have exclusive jurisdiction of such complaints (R. 110). The district judge observed, however, that under the wording of paragraph 14 of the contract RFC

[2] Upon the termination of the subsidy program, Duncan had imported into this country 25,833,279 pounds of green coffee which, at 3 cents per pound, amounted to $774,998.37 in subsidy, all of which has been paid except the amount in controversy here (R. 108).

was "entitled to 'recapture' the entire [inventory] at 3 cents per pound, or $189,194.64, and if this Court had jurisdiction of this case, I would enter Judgment that Plaintiff take nothing" (R. 110). Duncan appealed from such dismissal to the Court of Appeals for the Fifth Circuit, which appeal has been stayed pending the outcome of the present action (R. 112).

Following the district court's dismissal, Duncan, on December 8, 1948, filed a second and amended protest with the RFC (R. 2). This protest was denied by respondent (R. 113). Petitioner then filed the present complaint under Section 204 (a) of the Price Control Act, *infra*, pp. 19–20,[3] to set aside respondent's order, urging that the subsidy recapture provisions of paragraph 14 should be construed as applying only to the imported portion of the inventory, not to that portion acquired by it "in its status as a roaster"; that respondent's interpretation was contrary to the purpose of the import subsidy program and to the terms of the contract itself; that such interpretation was prejudicial to its function as a roaster, which function was similar to and competitive with other roasters who had not entered

[3] The Emergency Price Control Act expired by its own term on June 30, 1947. However, Section 1 (b) of that Act, *infra*, p. 18, provides that the Act shall be treated as still remaining in force for the purpose of sustaining any proper suit, action, or prosecution with respect to any rights accrued prior to the termination date.

880259—50——2

into the subsidy agreements and therefore were not subject to the recapture provisions (R. 117–133). The Emergency Court of Appeals sustained respondent's contention that the language of paragraph 14 plainly subjected Duncan's entire inventory at the time of the price increases to recapture, and accordingly dismissed the complaint (R. 167–176).

ARGUMENT

The decisive question in this case is the correctness of respondent's interpretation and application of recapture provisions in its coffee subsidy contract with petitioner. Respondent's order which embodies this interpretation and application may be considered presumptively valid (see *Montgomery Ward & Co.* v. *Bowles,* 138 F. 2d 669 (E. C. A.); *Armour & Co.* v. *Reconstruction Finance Corporation,* 162 F. 2d 918 (E. C. A.); *Barnett* v. *Bowles,* 151 F. 2d 77, 81 (E. C. A.), certiorari denied, 326 U. S. 766), and petitioner, seeking to overturn the order, carries a statutory burden of demonstrating by "strong and convincing" evidence that it was "not in accordance with law or [was] arbitrary or capricious, * * *." Section 204 (b) of the Emergency Price Control Act, *infra,* p. 20; *Madison Park Corp.* v. *Bowles,* 140 F. 2d 316, 326 (E. C. A.); see *Cudahy Bros. Co.* v. *Bowles,* 142 F. 2d 468 (E. C. A.); *Illinois Packing Co.* v. *Snyder,* 151 F.

2d 337 (E. C. A.).[4] There is, however, no necessity for resort to rules of presumption or burden of evidence in this case. The action of respondent here challenged is plainly correct as a matter of simple contract interpretation and the court below so held. We submit that there is no occasion for review of the decision below.

1. The language of paragraph 14 as amended is unambiguous and clearly authorizes respondent to recapture against Duncan's entire inventory, whether imported or not. It states (R. 51) that in the event of OPA price increases "the importer shall pay to RFC an amount equal to the equivalent of the increase in value of his inventory" computed at the rate of 3 cents a pound green basis or the increase in prices, whichever is lower. Such inventory is to be computed as of the date of increase in prices and is defined to "include all types of coffee, measured in green basis equivalents * * * which either the importer owns in the continental United States" or for which a bill of lading has been issued for Duncan's account in a foreign port. Then fol-

[4] Petitioner misreads or misconceives the plain language of Section 204 (b) and attempts to put the burden upon respondent by a groundless assumption that respondent's interpretation of the contract and consequent order is prejudicial to its roaster function (Br. 5, 7, 14, 33) and to the coffee industry in general (Br. 23, 25). Petitioner then advances the novel argument that RFC must show explicit authority in the contract for such prejudice (Br. 12, 15, 29, 30).

lows the qualification that "the total inventory shall be reduced by the quantity of such coffee" already contracted to be sold by Duncan at OPA prices in effect April 1, 1946. Thus, the importer, Duncan, is to pay RFC "an amount equal to the equivalent of the increase in value of his inventory"; such inventory is defined to "include all types of coffee * * * which the importer owns in the continental United States * * * provided that the total inventory" shall not include that quantity already contracted for sale at OPA prices. Such language admits of no other interpretation than that RFC was directed, in the event of price increases, to recover 3 cents per pound on Duncan's entire terminal inventory. The concluding sentence of paragraph 14 concludes all doubt: "The total amount of repayment to RFC under this paragraph shall not exceed the amount of payments by RFC to the importers under this agreement as amended." This language would be mere surplusage under petitioner's contention that it was the parties' intention to apply recapture only to imported coffee; for, in such case, petitioner's liability would necessarily have been limited to the amount of payments by RFC to the importer upon coffee imported under the agreement.

In the attempt to deny the plain meaning of paragraph 14 and thereby limit its liability to its "importer" inventory, petitioner contends (Br. 29–31) that RFC's interpretation of the

contract, and consequent withholding, was contrary to the intent of the parties. Petitioner asserts that respondent's interpretation, resulting in recapture on Duncan's entire inventory of coffee whether acquired in its capacity as "importer" or as "roaster," is the result of treating the words "importer" and "roaster" as identical, whereas, traditionally, the importer and roaster functions of coffee companies have been considered separate and the terms have never been considered synonymous (Br. 11, 15, 18, 21, 27).[5] Petitioner argues (Br. 21, 28, 30) that the word "importer" could not have been intended to include the "roaster status" of Duncan, that the real intent of the parties must be effectuated by considering the word "importer" appearing in paragraph 14 as meaning Duncan Coffee Company in its role as an importer, and not in its role as a roaster.[6] The conclusive answer to this is found in the opinion of the court below (R. 173):

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[5] It is to be noted that, despite Duncan's assertions as to its and the industry's understanding of the contract to the contrary (Br. 3, 18, 27, 30), petitioner is the only member of the industry which has challenged RFC's interpretation and brought suit against it.

[6] Throughout its petition (Pet. 3, 4, 6, 7, 11), Duncan, in arguing that its entire inventory is not liable, refers to the term "importer's inventory." The implication, presumably, is that the obvious meaning of the term and therefore of the contract is "inventory as an importer." As a matter of fact, the term "importer's inventory" nowhere appears in the contract.

> The contract itself recites that it is an "agreement * * * between Reconstruction Finance Corporation * * * hereinafter called RFC and Duncan Coffee Co. * * * hereinafter called the 'Importer'." This appears to be a clear, unambiguous expression of the parties' intention that the word "Importer", whenever it appeared in the body of the contract, shall mean "Duncan Coffee Company" and nowhere in the contract does there appear any provision which lends support to [petitioner's] contention that the word should be construed to mean "Duncan Coffee Company in its status as importer."

Moreover, the courts will not rewrite a contract in the absence of mutual mistake, fraud, or accident. *Manufacturer's Finance Co.* v. *McKey,* 294 U. S. 442; *Hedges* v. *Dixon County,* 150 U. S. 182, 189. Petitioner has not and cannot allege any such occurrence.[7]

[7] In a further effort to deny its contractual liability, petitioner argues (Br. 8–9) that respondent's contract interpretation is contrary to the purpose of Directive 87 of the Office of Economic Stabilization. Although the meaning of the language of the contract is so clear as to preclude any occasion for resort to extrinsic circumstances (see *United States* v. *Golden Gate Bridge and Highway District,* 37 F. Supp. 505 (N. D. Cal.), affirmed 125 F. 2d 872 (C. A. 9), certiorari denied, 316 U. S. 700), the language of paragraph 14, if resort to extrinsic facts be justified, should be read in the light of the recapture provisions of Directive 87, and not, as petitioner attempts (Br. 8), exclusively in the light of its importation provisions. The recapture provisions of

Clearly, therefore, the language of paragraph 14 and the rest of the contract required and fully supported RFC's interpretation, and its order was in no way contrary to law. Actually, petitioner's suit is merely an attempt, after having received full subsidy benefits, to avoid its plain duty under the contract. Petitioner "may not at the same time approbate and reprobate." *Burnes* v. *Burnes,* 137 Fed. 781, 801 (C. A. 8), certiorari denied, 199 U. S. 605; see *Gray* v. *Commodity Credit Corp.,* 63 F. Supp. 386 (S. D. Cal.), affirmed, 159 F. 2d 243 (C. A. 9), certiorari denied, 331 U. S. 842; *Keller* v. *Ashford,* 133 U. S. 610, 620.

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the May 6 Amendment No. 3 to Directive 87, *infra*, p. 22, incorporated almost *haec verba* into paragraph 14 as amended, provide that in the event of price increases the importer shall refund RFC "on all coffee which he then has in inventory on which the subsidy has been paid. For the purposes of this paragraph, the subsidy will be deemed to have been paid on all coffee which the importer has in inventory in the United States upon the termination of this program * * *." Clearly, therefore, RFC's order was entirely consistent with the recapture provisions of Directive 87.

Moreover, as a practical matter, it is readily perceived why it should have been the parties' intention that paragraph 14 embrace a contractor's entire inventory, both coffee imported by it and coffee obtained from other importers. Respondent could hardly recapture the subsidy from an importer upon coffee which the latter had sold the contractor and upon which it would not receive the benefit of increased prices. Further, the absence of a recapture provision as to non-imported coffee would have opened the possibility of manipulation and straw deals by the contractors so as to avoid recapture and yet receive the full benefit of the price increases.

2. Petitioner contends that RFC's order is prejudicial to its roaster function and to the coffee industry in general, and that it is inconsistent, therefore, with the Emergency Price Control Act the purpose of which is to stabilize and restore natural business functions (Pet. 4, 8, 9; Br. 34). In answer to this contention, suffice it to say that Section 1 (a) of the Act (50 U. S. C. App. 901 (a)) states that the purpose of the Act is "to stabilize prices and to prevent speculative, unwarranted, and abnormal increases in prices and rents; to eliminate and prevent profiteering, hoarding, manipulation, speculation, and other disruptive practices resulting from abnormal market conditions or scarcities caused by or contributing to the national emergency * * *." Such language clearly envisages respondent's action in preventing an unjustifiable windfall on the part of a contractor in the event of price increases. *Schluderberg-Kurdle Co.* v. *Reconstruction Finance Corporation,* 169 F. 2d 419 (E. C. A.), certiorari denied, 335 U. S. 846; cf. *Yakus* v. *United States,* 321 U. S. 414.

The assertions as to the prejudicial nature of the order, repeated (Br. 20–26) in connection with Section 2 (h) of the Act (50 U. S. C. App. 902 (h)), are equally without foundation. As to the argument (Br. 22, 25, 32) that RFC's interpretation discriminates against Duncan in its role as a roaster since competing roasters, who were not members of the subsidy program, are

not subject to any recapture, the court below said (R. 174):

> The answer to this is found in the contractual nature of the document being interpreted. If there has been any change in [petitioner's] business practices, and if [petitioner], in its roaster status, has been placed at a competitive disadvantage, it consented, in legal effect, to these changes when it signed the contract with respondent.

In the final analysis, Duncan's so-called roaster function was not discriminated against or prejudiced anyway. Despite petitioner's assertions to the contrary (Br. 29, 32, 33, 34), Duncan's "roaster function" was not "economically identical" with nonimporting roasters. That coffee which Duncan imported, roasted and then sold was not subject to any middleman's profit, whereas the finished product of a nonimporting roaster necessarily was. Further, the refund owed by Duncan on its quantity of nonimported coffee is more than counterbalanced, so far as nonimporting roasters are concerned, by the subsidies which Duncan has received on its imported coffee and which of course have not been received by the nonimporting roasters. Cf. *Armour & Co.* v. *Bowles,* 148 F. 2d 529 (E. C. A.), certiorari denied, 325 U. S. 871. Moreover, even if Duncan's "roaster function" were put at some slight economic disadvantages as a result of the

subsidy program, this fact would not render respondent's order invalid since RFC's action was necessitated by the complexities of wartime conditions and the imperative need for inflation control. Wartime orders, even though causing some individual hardship, are not thereby rendered invalid since "citizenship has its responsibilities as well as its privileges, and in time of war the burden is always heavier." *Galante* v. *Commodity Credit Corporation,* 71 F. Supp. 963, 966 (S. D. Cal.); see *Counselman* v. *Fleming,* 161 F. 2d 203 (E. C. A.), certiorari denied, 331 U. S. 861; *Bowles* v. *Willingham,* 321 U. S. 503; *U. S. Gypsum Co.* v. *Brown,* 137 F. 2d 803 (E. C. A.).

Duncan's further contention (Br. 21, 23) that RFC's order is prejudicial to the coffee industry in general since it disturbs the normal channels of supply and therefore is in conflict with Section 2 (h) of the Act (50 U. S. C. App. 902 (h)) seems totally devoid of merit. Duncan has produced no evidence, in the words of Section 2 (h), of "changes in the [industry's] business practices, cost practices or methods, or means or aids to distribution * * *." Nor has petitioner shown that RFC, contrary to Section 2 (h), in any way has gone "beyond its price regulating function and [engaged] in an effort to reform business practices which were not directly related to prices * * *." *Philadelphia Coke Co.* v. *Bowles,* 139 F. 2d 349, 358 (E. C. A.); see *Safe-*

way Stores, Inc. v. *Bowles,* 145 F. 2d 836 (E. C. A), certiorari denied, 324 U. S. 847.

Paragraph 14, and respondent's interpretation of its plain meaning was in no way arbitrary or capricious, but was a reasonable means of avoiding an unconscionable windfall to petitioner.

CONCLUSION

For the foregoing reasons it is respectfully submitted that the decision of the court below is correct and presents no question which warrants review. The petition for a writ of certiorari should therefore be denied.

PHILIP B. PERLMAN,
Solicitor General.

H. G. MORISON,
Assistant Attorney General.

SAMUEL D. SLADE,
JOHN R. BENNEY,
RICHARD P. WILLIAMS, III,
Attorneys.

APRIL 1950.

APPENDIX

1. The Emergency Price Control Act of 1942, as amended (56 Stat. 23, 765, 58 Stat. 632, 59 Stat. 306, 60 Stat. 664; 50 U. S. C. App. 901 *et seq.*:

> SEC. 1. (b) The provisions of this Act, and all regulations, orders, price schedules, and requirements thereunder, shall terminate on June 30, 1947, or upon the date of a proclamation by the President, or upon the date specified in a concurrent resolution by the two Houses of the Congress, declaring that the further continuance of the authority granted by this Act is not necessary in the interest of the national defense and security, whichever date is the earlier; except that as to offenses committed, or rights or liabilities incurred, prior to such termination date, the provisions of this Act and such regulations, orders, price schedules, and requirements shall be treated as still remaining in force for the purpose of sustaining any proper suit, action, or prosecution with respect to any such right, liability, or offense.
>
> * * * * *
>
> SEC. 2. (e) Whenever the Administrator determines that the maximum necessary production of any commodity is not being obtained or may not be obtained during the ensuing year, he may, on behalf of the United States, without regard to the provisions of law requiring competitive bidding, buy or sell at public or private sale, or store or use, such commodity in such quantities and in such manner and upon

such terms and conditions as he determines to be necessary to obtain the maximum necessary production thereof or otherwise to supply the demand therefor, or make subsidy payments to domestic producers of such commodity in such amounts and in such manner and upon such terms and conditions as he determines to be necessary to obtain the maximum necessary production thereof: *Provided,* That in the case of any commodity which has heretofore or may hereafter be defined as a strategic or critical material by the President pursuant to section 5d of the Reconstruction Finance Corporation Act, as amended, such determinations shall be made by the Federal Loan Administrator with the approval of the President, * * *

* * * * *

SEC. 203. (a) At any time after the issuance of any regulation or order under section 2, or in the case of a price schedule, at any time after the effective date thereof specified in section 206, any person subject to any provision of such regulation, order, or price schedule may, in accordance with regulations to be prescribed by the Administrator, file a protest specifically setting forth objections to any such provision and affidavits or other written evidence in support of such objections * * *

* * * * *

SEC. 204. (a) Any person who is aggrieved by the denial or partial denial of his protest may, within thirty days after such denial, file a complaint with the Emergency Court of Appeals, created pursuant to subsection (c), specifying his objections and praying that the regulation, order, or price schedule protested be enjoined or set

aside in whole or in part * * * Upon the filing of such complaint the court shall have exclusive jurisdiction to set aside such regulation, order, or price schedule, in whole or in part, to dismiss the complaint, or to remand the proceeding * * *

(b) No such regulation, order, or price schedule shall be enjoined or set aside, in whole or in part, unless the complainant establishes to the satisfaction of the court that the regulation, order, or price schedule is not in accordance with law, or is arbitrary or capricious.

* * * * *

(d) Within thirty days after entry of a judgment or order, interlocutory or final, by the Emergency Court of Appeals, a petition for a writ of certiorari may be filed in the Supreme Court of the United States, and thereupon the judgment or order shall be subject to review by the Supreme Court in the same manner as a judgment of a circuit court of appeals as provided in section 240 of the Judicial Code, as amended. * * *

2. Directive 87, Office of the Stabilization Administrator, Office of War Mobilization and Reconstruction (10 F. R. 14450):

1. The Reconstruction Finance Corporation is authorized and directed to establish and carry out the following subsidy program with respect to imports of green coffee:

(a) The amount of the subsidy shall be 3 cents per pound (net shipping weight basis) of green coffee imported in accordance with the eligibility provisions of this directive.

(b) In no event shall any subsidy payment be made on any green coffee imported in excess of 6,000,000 bags of 60 kilograms each.

* * * * *

(e) The Reconstruction Finance Corporation shall require that each importer, as a condition of obtaining any subsidy payments under this program, agree:

(i) That he will not hold any inventory of green coffee in the United States in excess of a reasonable amount as defined by the Stabilization Administrator or an agency designated by him;

* * * * *

Amendment 2 to Directive 87 (11 F. R. 2994):

1. (f) The Reconstruction Finance Corporation shall require that each importer, as a condition of obtaining any subsidy payment under this program, agree:

(i) That he will not hold any inventory of green coffee in the United States in excess of a reasonable amount as defined by the Secretary of Agriculture in accordance with section 3 (b) of this directive;

(ii) That the coffee on which the subsidy is claimed will be sold by him only for domestic civilian consumption in the United States;

(iii) That, in the event of an increase in maximum prices for coffee upon the termination of this subsidy program, he will refund to the Reconstruction Finance Corporation the equivalent of such price increase (not to exceed 3 cents per pound, green basis) on all coffee which he then has in inventory on which the subsidy has been paid. For the purposes of this paragraph, the subsidy will be deemed to have

been paid on all coffee which the importer has in inventory in the United States upon the termination of this program, not to exceed the quantity on which he has received subsidy payments.

Amendment 3 to Directive 87 (11 F. R. 5023-5024):

1. (f) (iii) That, in the event of an increase in maximum prices for coffee upon the termination of this subsidy program, he will refund to the Reconstruction Finance Corporation the equivalent of such price increases (not to exceed 3 cents per pound, green basis) on all coffee which he then has in inventory on which the subsidy has been paid. For the purposes of this paragraph, the subsidy will be deemed to have been paid on all coffee which the importer has in inventory in the United States upon the termination of this program, and on all coffee loaded on board an exporting carrier for shipment to a United States port, for the account of the importer, on or before June 30, 1946, not to exceed the quantity on which he has received subsidy payments.

U. S. GOVERNMENT PRINTING OFFICE: 1950